

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Industrial Communications and
Electronics, Inc., et al.

v.

Civil No. 07-cv-0082-JL

Town of Alton

PROCEDURAL ORDER: BENCH TRIAL

The bench trial in this matter on the issue of effective prohibition will be held **November 14 and 15, 2011** at **9:30 am**.

The parties have agreed to submit their direct testimony in the form of affidavits, and that affiants will undergo cross-examination, and appropriate "redirect" and "recross." All parties have further agreed that records of proceedings before Alton's municipal boards, which are on file with the court, may be part of the evidentiary record of this proceeding.

On or before **November 4, 2011**, the parties shall jointly file:

- a **single** timeline setting forth all pertinent dates, times, and events, in whatever format the parties jointly choose (in other words, the parties need not comply with Local Rule 5.1(a) with respect to the timeline);
- a **single** Statement of Agreed Facts followed by a Statement of Disputed Facts.¹ The disputed facts are not an invitation to advocacy (i.e., "The plaintiff can not establish irreparable harm because" or "There is a strong likelihood of success on the merits because"). The parties should simply list facts they intend to establish at the hearing, or which they contend will not be established at the hearing.

¹As discussed during the recent telephone conference, to save time and resources, the parties may simply file a revised, supplemented version of document no. 39.

Counsel shall confer (preferably in person, or else by telephone) in a good-faith effort to identify all areas of agreement and to make the statement of facts and timeline as comprehensive as possible, so that open court testimony can focus on matters truly in dispute.

On or before **November 9, 2011**, each party shall file:

- a witness list;
- an exhibit list;
- all "direct examination" affidavits; and
- proposed findings of fact and rulings of law, specifically tailored to each pleaded **claim, affirmative defense, counterclaim, and defense thereto (if applicable)**.²

Counsel shall confer before the hearing to identify all areas of agreement and disagreement as to the admissibility of each exhibit.

SO ORDERED.



Joseph N. Laplante
United States District Judge

Dated: September 28, 2011

²The proposed finding and ruling are meant to function as your trial brief. Counsel may, but are not required, to file a separate trial brief.

cc: Steven E. Grill, Esq.
Anthony S. Augeri, Esq.
Katharine Blackall Miller, Esq.
Robert D. Ciandella, Esq.
Robert M. Derosier, Esq.
Christopher Cole, Esq.
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